

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

COREY R. BEEKMAN,

Plaintiff,

v

ROBERT WILKIE, et al,

Defendants.

Case No. 18-cv-12878

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

**ORDER ADOPTING REPORT AND RECOMMENDATION, DISMISSING
COMPLAINT WITHOUT PREJUDICE AND DENYING AS MOOT
MOTIONS TO DISMISS**

On June 15, 2018, Plaintiff Corey Beekman, proceeding pro se, filed a complaint in State Court. On September 14, 2018, the case was removed to this Court by Defendant Wilkie, Secretary of Veterans Affairs. On September 21, 2018, Defendant Wilkie filed a motion to dismiss based on lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted under Fed. R. Civ. P. 12(b)(1) and (b)(6). ECF No. 3. Pretrial matters were referred to Magistrate Judge Patricia T. Morris. ECF No. 7.

On October 10, 2018, Defendants Nationstar Mortgage, LLC and USAA Federal Savings Bank moved to dismiss based on Plaintiff's failure to file an amended complaint pursuant to the State Court's (Midland County District Court) Order granting its motion for a more definite statement and because Plaintiff's Complaint fails to state a claim upon which relief can be granted under Fed. R. Civ. P. 12(b)(6). ECF No. 16.

On September 26, 2018, Plaintiff was ordered to file a response to Defendant Wilkie's motion to dismiss by October 12, 2018. ECF No. 8. On October 10, 2018, Plaintiff was ordered to file a response to Defendants Nationstar and USAA's motion to dismiss by October 30, 2018.

ECF No. 17. To date, Plaintiff has not appeared in this case. On January 8, 2019, Judge Morris filed a report, recommending that this case be dismissed without prejudice for failure to prosecute, and that the motions to dismiss be denied as moot. ECF No. 20.

Federal Rule of Civil Procedure 41(b) grants federal courts the authority to dismiss a case for “failure of the plaintiff to prosecute or to comply with these rules or any order of the court” Fed R. Civ. P. 41(b). Local Rule 41.2 mirrors the federal rule, providing that “the parties have taken no action for a reasonable time, the court may, on its own motion after reasonable notice or on application of a party, enter an order dismissing or remanding the case unless good cause is shown.” E.D. Mich. R. 41.2.

Although the magistrate judge’s report explicitly states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither party has filed any objections. The election not to file objections to the magistrate judge’s report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal. *Id.*

Accordingly, it is **ORDERED** that the report and recommendation, ECF No. 20, is **ADOPTED**.

It is further **ORDERED** that the complaint, ECF No. 1, is **DISMISSED** without prejudice.

It is further **ORDERED** that the motions to dismiss, ECF Nos. 3, 16, are **DENIED** as moot.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: February 13, 2019

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to **Corey R Beekman**, 842 W. Chippewa River Rd., Midland, MI 48640 by first class U.S. mail on February 13, 2019.

s/Kelly Winslow
KELLY WINSLOW